



1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Department for Environmental Protection

3 Division of Waste Management

4 (Amendment)

5 401 KAR 42:050. UST system release [~~Release~~] reporting, investigation, and confirmation.

6 RELATES TO: KRS 224.033, 224.10, 224.60, 40 CFR Part 280 Subpart E, 40 CFR Part
7 281, 42 U.S.C. 6991c

8 STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 40 CFR Part 280 Subpart
9 E, 40 CFR Part 281, 42 U.S.C. 6991c

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the
11 Environmental and Public Protection Cabinet [~~Natural Resources and Environmental Protection~~
12 ~~Cabinet~~] to develop and conduct programs which provide for the prevention, abatement, and
13 control of contaminants which may threaten the environment. KRS 224.60-105 [(2)] requires the
14 cabinet to regulate underground storage tanks by requiring registration [~~notification~~], minimum
15 construction and performance standards, leak detection, recordkeeping, reporting UST system
16 releases, corrective actions, closures, financial responsibility, and other requirements to protect
17 public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a
18 regulatory program which implements federal requirements for underground storage tanks and to
19 promulgate administrative regulations for underground storage tanks which shall be submitted
20 for approval to the United States Environmental Protection Agency pursuant to federal
21 regulations. This chapter identifies requirements for underground storage tanks. This

1 administrative regulation establishes the requirements for reporting of suspected UST system
2 releases, and investigation of off-site impacts.

3 Section 1. Adoption of Federal Regulations The requirements for reporting of suspected
4 UST system releases and investigation of off-site impacts for underground storage tank systems
5 are governed by 40 CFR Part 280 Subpart E [~~(1990)~~].

6 Section 2. Suspected UST System Release Reporting. A suspected UST system release
7 shall be reported immediately to the Environmental Response Team at (800) 928-2380, or (502)
8 564-2380.

9 Section 3. Extensions. With the exception of the reporting requirements in Section 2 of
10 this administrative regulation, the owner or operator of a UST system may request an extension
11 of the time frame for reports required by this administrative regulation. The extension request
12 shall be submitted in writing and received by the Underground Storage Tank Branch of the
13 Division of Waste Management prior to the deadline. The cabinet may grant extensions, if the
14 cabinet determines that an extension would not have a detrimental impact on human health or the
15 environment.

401 KAR 42:050 is approved for filing.

4-12-2006

Date

John W. Clay

John W. Clay, Deputy Secretary
Environmental and Public Protection Cabinet

for

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2006 at 10:00 AM (Eastern Time) at the Capital Plaza Tower Auditorium, 500 Mero Street, Room 228, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by May 16, 2006, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2006. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Bruce Scott, P. E., Director
Division of Waste Management
14 Reilly Road
Frankfort, KY 40601
Telephone: (502) 564-6716 Fax (502) 564-4049
Email: Bruce.Scott@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 42:050

Contact person: Bruce Scott, Director

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes the requirements for the reporting of suspected releases and investigation of the associated off-site impacts.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements for the reporting of suspected releases and the investigation of off-site impacts.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements for the reporting of suspected releases and the investigation of off-site impacts.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist by establishing the requirements to report suspected releases and the investigation of off-site impacts.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: This amendment serves to update the adopted federal regulations.
- (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the adopted federal regulations.
- (c) How the amendment conforms to the context of the authorizing statutes: This amendment conforms by updating the adopted federal regulations.
- (d) How the amendment will assist in the effective administration of the statutes: This amendment assists by maintaining the federal regulations adopted for the reporting of suspected releases and the investigation of off-site impacts.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect those individuals that own and operate underground storage tanks in the Commonwealth of Kentucky, approximately 13,400. UST contractors that operate in the Commonwealth of Kentucky will also be affected by this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: This amendment provides owners and operators the requirements for reporting suspected releases and investigation of off-site impacts from underground storage tanks.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

- (a) Initially: There will be no cost associated with implementation of this regulation.
- (b) On a continuing basis: There will be no additional costs associated with regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation and enforcement of this administrative regulation is funded through two Federal grants and the restricted fund receipts described in KRS 224.60-150.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There is no need for an increase in funding or fees to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)

No tiering is applied. This administrative regulation applies to all owner and operators of USTs. To apply tiering to the amendment would unduly regulate some entities with USTs while not regulating others.

FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 42:050

Contact person: Bruce Scott, Director

Phone Number: (502) 564-6716

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No If yes, complete question 2 to 4. If no, you do not need to file this form.

2. State what unit, part, or division of local government this administrative regulation will affect.

This amendment may affect local governments that own or operate underground storage tanks.

3. State, in detail, the aspect or service of local government to which this administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation.

This amendment relates to the agents of local government that own or operate underground storage tanks. KRS 224.60-105 authorizes the promulgation of this amendment.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No effect.

Expenditures (+/-): No effect.

Other Explanation: The cabinet expects no significant impacts from this administrative regulation.